THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3467 of 2007

Dated:23.02.2007

Between:

Makkena Chandramouli and another.

…Petitioners

and

The Mandal Revenue Officer.

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3467 of 2007

ORDER:

The petitioners statedly purchased land admeasuring Acs.2.33 cents in Survey Nos.506/1A3, 506/1A2 and 506/1A3 situated at Mahadevapuram Village, Kandukur Mandal in Prakasam District, under registered sale deed dated 23.10.2004 from Aareti Venkataramanamma and Ellanti Jayalakshmi. They allegedly obtained pattadar pass books and title deeds from the revenue authorities. The respondent herein displayed a board over the land that it is a Government land and nobody should trespass into the land. The petitioners, therefore, filed W.P.No.3438 of 2005 in which an order of *status quo* was passed. The petitioners thereafter, came to know that the said land was assigned to Katta Mastan and Kodati Jalaiah in 1972, that they sold the land to Smt.Pulipati Venkamma under registered sale deeds dated 21.02.1995, 31.05.1997 and 05.04.1984, and therefore, the respondent by proceedings dated 25.07.1996 resumed the land to the Government. It is also alleged that against the orders of resumption, an appeal was filed before the Revenue Divisional Officer, who set aside the order of the Mandal Revenue Officer, as a result of which, Pulipati Venkamma became absolute owner, and she settled the property in favour of her two daughters, who alienated the land to the petitioners. The petitioners also allege that

they made all the enquiries and made representation to the respondent on 04.05.2006 to exempt the land from the purview of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'). As the same has not been disposed of, the petitioners filed the instant Writ Petition seeking a direction to the respondent to exempt the land from the purview of the Act.

The petitioners admit that the land they purchased is assigned land. Having regard to this, this Court specifically asked a query to the learned Counsel for the petitioners to show any provision under the Act, which empowers any authority to exempt any assigned land from the applicability of the Act. There is no such provision. This is admitted. However, learned Counsel for the petitioners submits that the petitioners themselves are landless poor persons, and therefore, even if the alienation made in their favour suffers from the vice under Section 3(3) of the Act, by reason of Section 3(5) of the Act, they cannot be dispossessed from the land nor the land from them can be resumed.

There are two provisions under the Act, which impliedly exempt certain classes of lands and certain classes of transactions from the purview of the Act. Except these two provisions, all the categories of transfer of assigned land whether it is sale, gift, lease, mortgage, exchange or otherwise are rendered void. The one situation is as contemplated under Section 3(5) of the Act, which is to the effect that if any alienation is made in contravention of conditions of assignment, namely, inalienability, and such transfer is made prior to commencement of the Act by the assignee in favour of a person who is also landless poor person, Section 3(3) of the Act has no application. The second situation is when in exercise of powers under Section 5 of the Act, the District Collector grants permission for registration of documents relating to transfer of assigned land.

The petitioners purchased the property from the two daughters of Pulipati Venkamma, who is herself an alienee from the original assignees under registered sale deeds dated 21.02.1995, 31.05.1997 and 05.04.1984. Therefore, these transactions being subsequent to commencement of the Act, i.e., on 28.03.1977, they are not saved under Section 3(5) of the Act. It is nobody's case that the petitioners obtained prior permission of the District Collector under Section 5 of the Act. Therefore, the petitioners have no right to seek exemption of the transaction of sale in their favour nor the respondent is competent to grant such exemption.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

23.02.2007
vs